

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
RENO, NEVADA

HOWARD ELLIS,	)	3:08-cv-00657-ECR-WGC
	)	
Plaintiff,	)	MINUTES OF THE COURT
	)	
vs.	)	DATE: August 21, 2012
	)	
BENEDETTI, et al.,	)	
	)	
Defendant(s).	)	
	)	

PRESENT: EDWARD C. REED, JR. U. S. DISTRICT JUDGE

Judicial Assistant: Candace Knab Reporter: NONE APPEARING

Counsel for Plaintiff(s) NONE APPEARING

Counsel for Defendant(s) NONE APPEARING

MINUTE ORDER IN CHAMBERS

On March 19, 2012, the Magistrate Judge issued an Order (#155) advising Plaintiff that the section in Plaintiff's Opposition (#142) to Defendants' Motion to Dismiss (#142) requesting summary judgment would not be construed as a motion for summary judgment, and that if Plaintiff seeks summary judgment he should file a separate motion in accord with Federal Rule of Civil Procedure 56 and Local Rule 56-1. Plaintiff submitted an Objection/Motion to Reconsider (#157) the Magistrate Judge's Order (#155) on March 29, 2012. Defendants filed a Response (#169) on April 12, 2012.

Plaintiff argues that the Magistrate Judge's Order (#155) should be overruled because it was not based on any arguments provided by Defendants in their Motion to Strike (#144). Plaintiff's argument is completely without merit. The Magistrate Judge need not base his decision on the arguments raised by Defendants in an unrelated motion, which, in any event, the Magistrate Judge later denied (#152). The Magistrate Judge sua sponte construed Plaintiff's motion and ruled that, to the extent it was a motion for summary judgment, it did not follow the Federal and Local Rules. The ruling was not clearly erroneous, nor was it contrary to law. Further, the Court agrees with the Magistrate Judge that, to the extent Plaintiff seeks

